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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,319	07/01/2003	Peter Schlaak	6741P006	4019
32864	7590	07/27/2006	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			ADE, OGER GARCIA	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/611,319	<b>Applicant(s)</b> SCHLAACK ET AL.	
	<b>Examiner</b> Garcia Ade	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/24/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 7, 11 – 17, and 21 – 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukuda [US 6,085,170].

**As per claims 1, 3, 6, 11, 13, 21, and 23**, Tsukuda discloses a method for use in managing a supply chain multiple customers, comprising: receiving a new delivery schedule from a customer [see flowchart of figure 1 (e.g. block 102)]; determined a deviation between the new delivery schedule and a confirmed delivery schedule from the customer [see column 4, lines 3 – 9 (e.g. differences from various view points, such as from a view point of the distributor, a view point of the agent, and a view point of the purchaser)]; and determining if the new schedule is eligible for further consideration based on the deviation [see column 9, lines 56 – 63 (e.g. the delivery goods information is constructed by further **adding items or columns "size(s)"** and **"necessity of refrigeration of the goods"**)]; generating a schedule of production recourses and inventory that satisfies at least some requirement

Art Unit: 3627

of the new delivery schedule [see abstract, and via step 101 (e.g. list of a ***schedule for delivery*** by using the delivery information 121)]; confirm to the customer that the supplier accepts the new delivery schedule [via step 1907 (e.g. ***confirming the existence of the scheduled***)].

**As per claims 2, 12, and 22**, Tsukuda discloses: generating comprises updating an existing schedule of production resource [see abstract, and see column 2, lines 41 - 47].

**As per claims 4, 14, and 24**, Tsukuda discloses: determining the deviation comprises comparing items from the new delivery schedule to item from the confirmed delivery schedule [see column 7, lines 4 - 15 (e.g. comparing the purchased goods information through the network and that inputted through the input apparatus), and see claim 3].

**As per claims 5, 15, and 25**, Tsukuda discloses: the items comprises quantities of goods to be delivered at specified dates [column 2, lines 17 - 25 (e.g. ***desired date and time*** for the delivery service)].

**As per claims 6, 16, and 26**, Tsukuda discloses: the deviation is indicative of an error if the deviation exceeds a predetermined tolerance [see figure 14.

**As per claims 7, 17, and 27**, Tsukuda discloses: prompting a user for input if the deviation exceeds the predetermined tolerance [see figure 2 (e.g. ***input device***)]; determining if the new delivery schedule is eligible for further consideration is based, at least in part, on the user input [see figure 3, and see column 7, lines 10 - 15].

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 – 10, 18 – 20, and 28 - 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukuda, and further in view of Holland et al. [US 2002/0143605].

**As per claims 8 – 10, 18 – 20, and 28 - 30**, Tsukuda discloses all elements per claimed invention as explained above. Tsukuda does not explicitly disclose: the new delivery schedule comprises a forecast of delivery requirements, a long term forecast, and allocating resources based on the schedule of production resources.

However, Holland discloses: the new delivery schedule comprises a forecast of delivery requirements, a long term forecast [see paragraph 0033 (e.g. ***forecasts delivery schedules***)], and paragraph 0047 (e.g. ***week 5 represent forecasted deliveries to be made***)], and allocating resources based on the schedule of production resources [see paragraphs 0010, 0033, and 0050].

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify Tsukuda's invention to include

Art Unit: 3627

Holland's forecasting method, and allocation resources. The motivation to combine would provide a method and apparatus for a plurality of businesses to manage supply and demand of critical business resources [see paragraph 0011].

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Garcia Ade whose telephone number is 571.272.5586. The examiner can normally be reached on M-F 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571.272.6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3627

Garcia Ade  
Examiner  
Art Unit 3627

ga

Andrew Joseph Rudy  
7/21/06  
Primary Examiner, AU 3627